

# [DISCUSSION DRAFT]

109TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To redirect and reform the universal service provisions of the Communications Act of 1934, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. TERRY (for himself and Mr. BOUCHER) introduced the following bill;  
which was referred to the Committee on \_\_\_\_\_

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## A BILL

To redirect and reform the universal service provisions of the Communications Act of 1934, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Universal Service Re-  
5       form Act of 2005”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds the following:



1           (1) The current State and Federal mechanisms  
2           used to collect and distribute universal service sup-  
3           port are not sustainable in a competitive and rapidly  
4           changing technological environment.

5           (2) Voice-over-Internet-Protocol, wireless voice  
6           services, and popular flat rate, all-distance pricing  
7           plans for voice services have rendered meaningless  
8           the distinctions between and among interstate tele-  
9           communications and information services, and be-  
10          tween and among intrastate telecommunications  
11          services and information services, thus making uni-  
12          versal service support mechanisms based upon such  
13          jurisdictional concepts unsustainable.

14          (3) Providing unlimited universal service sup-  
15          port to multiple competing telecommunications car-  
16          riers in the same service area results in an excessive  
17          demand for universal service support.

18          (4) Implicit support mechanisms were the uni-  
19          versal service support mechanisms of choice for  
20          State commissions and during the natural monopoly  
21          era that preceded the Telecommunications Act of  
22          1996. Implicit support mechanisms are effective in  
23          monopoly environments; however, they are incon-  
24          sistent with the competitive environment fostered by  
25          the 1996 Act, and they should be eliminated.

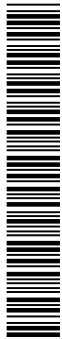


1           (5) The Commission was required by the Tele-  
2           communications Act of 1996 to make all Federal  
3           universal service support mechanisms explicit. Ex-  
4           plicit universal service support mechanisms are ap-  
5           propriate in the competitive telecommunications  
6           marketplace of the 21st century.

7           (6) Universal service support mechanisms  
8           should be used to provide incentives for continued  
9           investment in and enhancements to the public  
10          switched telephone network and to increase the  
11          availability of broadband services.

12          (7) Maintaining predictable, sufficient, and sus-  
13          tainable universal service support will require that  
14          support be collected from a broad base of service  
15          providers and in a more competitively and tech-  
16          nology neutral manner.

17          (8) The aggregate amount of universal service  
18          support is increasing annually and as a result, tele-  
19          communications carriers have had to pay an in-  
20          creased percentage of their total revenues to support  
21          universal service support mechanisms. By law, tele-  
22          communications carriers may pass through these  
23          costs to their subscribers, increasing the amount  
24          consumers are required to pay to maintain the con-  
25          tinued growth of universal service support.

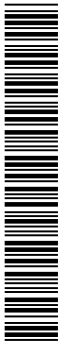


1 (b) PURPOSES.—The purposes of this Act are to re-  
2 form State and Federal universal support contribution  
3 and distribution mechanisms by—

4 (1) targeting universal service support specifi-  
5 cally to communications service providers in high  
6 cost geographic areas to ensure that communications  
7 services and broadband services are made available  
8 throughout all of the States of the United States in  
9 a fair and equitable manner;

10 (2) constraining the growth of universal service  
11 support by extending the current cap on the portion  
12 of the high cost loop support mechanism that is dis-  
13 tributed to rural incumbent local exchange carrier  
14 study areas to all communications service providers  
15 receiving support from the high cost support mecha-  
16 nism;

17 (3) ensuring universal service support contribu-  
18 tions are assessed fairly, equitably, and in a competi-  
19 tively neutral manner by means of a contribution as-  
20 sessment methodology based upon revenues derived  
21 from the provision of interstate, intrastate, and  
22 international services by any entity that currently  
23 contributes to or receives universal service support,  
24 provides real-time voice communications, over any  
25 platform, in which the voice component is the pri-



1       mary function, or offers a connection to the network  
2       over any platform;

3           (4) strengthening the criteria for eligible recipi-  
4       ents of universal service support; and

5           (5) ensuring that the United States becomes a  
6       world leader in broadband deployment by making  
7       broadband services and facilities eligible for uni-  
8       versal service support.

9   **SEC. 3. DEFINITIONS.**

10       Section 3(a) of the Communications Act of 1934 (47  
11   U.S.C. 153(a)) is amended—

12           (1) by redesignating paragraphs (20) through  
13       (52) as paragraphs (22) through (54);

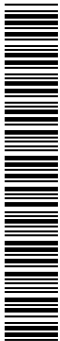
14           (2) by redesignating paragraphs (11) through  
15       (19) as paragraphs (12) through (20), respectively;

16           (3) by inserting after paragraph (10) the fol-  
17       lowing new paragraph:

18           “(11) COMMUNICATIONS SERVICE PROVIDER.—

19       The term ‘communications service provider’ means  
20       any entity that—

21           “(A) contributes to or receives universal  
22       service support for the most recent calendar  
23       quarter ending before the date of enactment of  
24       the Universal Service Reform Act of 2005;



1 “(B) uses telephone numbers or Internet  
2 protocol addresses, or their functional equiva-  
3 lents or successors, to offer a service or a  
4 capability—

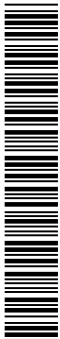
5 “(i) that provides or enables real-time  
6 voice communications; and

7 “(ii) in which the voice component is  
8 the primary function; or

9 “(C) offers for a fee, directly to the public,  
10 or to such classes of users as to be effectively  
11 available directly to the public, a physical trans-  
12 mission facility, whether circuit-switched, pack-  
13 et-switched, a leased line, or using radio fre-  
14 quency transmissions, regardless of the form,  
15 protocol, or statutory classification of the serv-  
16 ice, that allows an end user to obtain access,  
17 from a particular end user location, to a net-  
18 work that permits the end user to engage in  
19 electronic communications (including tele-  
20 communications) with the public.”; and

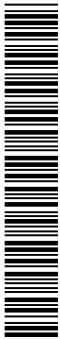
21 (4) by inserting after paragraph (20) (as redes-  
22 igned by paragraph (2) of this section) the fol-  
23 lowing new paragraph:

24 “(21) HIGH SPEED BROADBAND SERVICE.—



1           “(A) DEFINITION.—The term ‘high speed  
2           broadband service’ means a two way network  
3           that uses the Internet protocol or a successor  
4           protocol, and the associated capabilities and  
5           functionalities, services, and applications pro-  
6           vided over an Internet protocol platform or for  
7           which an Internet protocol capability is an inte-  
8           gral component, and services, facilities and  
9           equipment and applications that enable an end-  
10          user to receive communications in Internet pro-  
11          tocol format, regardless of whether the commu-  
12          nications are voice, data, video, or any other  
13          form at a download receiving rate not lower  
14          than 1 megabit per second.

15          “(B) COMMISSION SPEED ADJUSTMENT  
16          REQUIREMENTS.—The Commission shall review  
17          the speed requirement in subparagraph (A)  
18          every other year beginning the year after imple-  
19          mentation of the Universal Service Reform Act  
20          of 2005 and shall make the necessary adjust-  
21          ments to move to higher speeds as deployment  
22          and advancement of new technology allows com-  
23          munications service providers to provide higher  
24          speed broadband to end users in an economi-  
25          cally efficient manner.



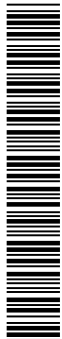
1           “(C) INTERNET PROTOCOL.—The term  
2           ‘Internet protocol’ means the Transmission  
3           Control Protocol/Internet Protocol, or any pred-  
4           ecessor or successor protocols to such pro-  
5           tocol.”.

6 **SEC. 4. UNIVERSAL SERVICE REFORM.**

7           (a) IN GENERAL.—Section 254 of the Communica-  
8           tions Act of 1934 (47 U.S.C. 254) is amended by amend-  
9           ing subsections (a) through (e) to read as follows:

10          “(a) PROCEDURES TO REFORM UNIVERSAL SERV-  
11          ICE.—

12               “(1) FEDERAL-STATE JOINT BOARD ON UNI-  
13               VERSAL SERVICE.—Within one month after the date  
14               of enactment of the Universal Service Reform Act of  
15               2005, the Commission shall institute and refer to  
16               the Federal-State Joint Board established under this  
17               section (pursuant to the Telecommunications Act of  
18               1996) a proceeding to recommend changes to its  
19               regulations in order to implement universal service  
20               reform required by this section (as amended by the  
21               Universal Service Reform Act of 2005), including  
22               changes to the definition of the services that are  
23               supported by Federal universal service support  
24               mechanisms and a specific timetable for completion  
25               of such recommendations. The Joint Board shall,





1 after notice and opportunity for public comment,  
2 make its recommendations to the Commission 9  
3 months after the date of enactment of the Universal  
4 Service Reform Act of 2005.

5 “(2) COMMISSION ACTION.—The Commission  
6 shall initiate a single proceeding to implement the  
7 recommendations from the Joint Board required by  
8 paragraph (1) and shall complete such proceeding  
9 within 15 months after the date of enactment of the  
10 Universal Service Reform Act of 2005. The rules es-  
11 tablished by such proceeding shall include a defini-  
12 tion of the services that are supported by Federal  
13 universal service support mechanisms and a specific  
14 timetable for implementation.

15 “(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint  
16 Board and the Commission shall base policies for the pres-  
17 ervation and advancement of universal service on the fol-  
18 lowing principles:

19 “(1) QUALITY AND RATES.—Quality services  
20 should be available at just, reasonable, and afford-  
21 able rates.

22 “(2) ACCESS TO ADVANCED SERVICES.—Access  
23 to advanced telecommunications and information  
24 services should be provided in all regions of the Na-  
25 tion.



1           “(3) ACCESS IN RURAL AND HIGH COST  
2 AREAS.—Consumers in all regions of the Nation, in-  
3 cluding low-income consumers and those in rural, in-  
4 sular, and high cost areas, should have access to  
5 telecommunications and information services, includ-  
6 ing interexchange services and advanced tele-  
7 communications and information services, that are  
8 reasonably comparable to those services provided in  
9 urban areas and that are available at rates that are  
10 reasonably comparable to rates charged for similar  
11 services in urban areas.

12           “(4) EQUITABLE AND NONDISCRIMINATORY  
13 CONTRIBUTIONS.—All communications service pro-  
14 viders should make an equitable and nondiscrim-  
15 inatory contribution to the preservation and ad-  
16 vancement of universal service.

17           “(5) SPECIFIC AND PREDICTABLE SUPPORT  
18 MECHANISMS.—There should be specific, predictable  
19 and sufficient Federal and State mechanisms to pre-  
20 serve and advance universal service.

21           “(6) ACCESS TO ADVANCED TELECOMMUNI-  
22 CATIONS SERVICES FOR SCHOOLS, HEALTH CARE,  
23 AND LIBRARIES.—Elementary and secondary schools  
24 and classrooms, health care providers, and libraries



1 should have access to advanced telecommunications  
2 services as described in subsection (h).

3 “(7) UNIVERSAL SERVICE SUPPORT.—Universal  
4 service support mechanisms for schools, libraries,  
5 rural health care, life-line, and link-up programs  
6 should be separated from all other universal service  
7 support mechanisms.

8 “(8) ADDITIONAL PRINCIPLES.—Such other  
9 principles as the Joint Board and the Commission  
10 determine are necessary and appropriate for the pro-  
11 tection of the public interest, convenience, and ne-  
12 cessity and are consistent with this Act.

13 “(c) DEFINITION.—

14 “(1) IN GENERAL.—Universal service includes  
15 the services defined on the date of enactment of the  
16 Universal Service Reform Act of 2005 as universal  
17 services, high speed broadband services, and an  
18 evolving level of telecommunications services that the  
19 Commission shall establish periodically under this  
20 section, taking into account advances in tele-  
21 communications and information technologies and  
22 services. The Joint Board in recommending, and the  
23 Commission in establishing, the definition of the  
24 services that are supported by Federal universal



1 service support mechanisms shall consider the extent  
2 to which such telecommunications services—

3 “(A) are essential to education, public  
4 health, or public safety;

5 “(B) are being deployed in public tele-  
6 communications networks by telecommuni-  
7 cations carriers; and

8 “(C) are consistent with the public inter-  
9 est, convenience, and necessity.

10 “(2) ALTERATIONS AND MODIFICATIONS.—The  
11 Joint Board may, from time to time, recommend to  
12 the Commission modifications in the definition of  
13 the services that are supported by Federal universal  
14 service support mechanisms.

15 “(3) SPECIAL SERVICES.—In addition to the  
16 services included in the definition of universal serv-  
17 ice under paragraph (1), the Commission may des-  
18 ignate additional services for such support mecha-  
19 nisms for schools, libraries, and health care pro-  
20 viders for the purposes of subsection (h).

21 “(d) UNIVERSAL SERVICE SUPPORT CONTRIBU-  
22 TIONS.—

23 “(1) CALCULATING UNIVERSAL SERVICE SUP-  
24 PORT.—Universal service support mechanisms  
25 should—



1           “(A) be determined based upon revenues  
2           derived from the provision of interstate, intra-  
3           state, and international services by communica-  
4           tions service providers; and

5           “(B) be applied to an expanded base of  
6           contributors in a manner that is assessed equi-  
7           tably and in a competitively neutral manner, is  
8           nondiscriminatory in nature, and ensures that  
9           classes of end users are subject to similar obli-  
10          gations.

11          “(2) REPORTS.—The Commission shall estab-  
12          lish reporting requirements for all communications  
13          service providers receiving universal service support.  
14          The reporting requirements shall not impose unnec-  
15          essary burdens, and shall be technology and provider  
16          neutral. The Commission shall periodically review  
17          the reporting requirements to ensure that universal  
18          service support is used for the provision, mainte-  
19          nance, and upgrading of the facilities for which sup-  
20          port is intended.

21          “(3) UNIVERSAL SERVICE SUPPORT CONTRIBU-  
22          TION LIMITS.—

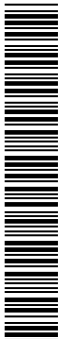
23                 “(A) LIMITATION.—The total amount of  
24                 universal service support for all universal serv-  
25                 ice support programs other than schools, librar-



ies, rural health care, life-line, and link-up shall not exceed the total amount that was collected from all sources for all universal service support programs other than schools, libraries, rural health care, life-line, and link-up in the last year prior to the date of enactment of the Universal Service Reform Act of 2005, as adjusted annually by a growth factor.

“(B) GROWTH FACTOR.—The growth factor shall be the annual percentage change in the total number of rural incumbent local exchange carrier working loops, plus the annual percentage change in the Gross Domestic Product–Chained Price Index (GDP–CPI), or any successor general inflationary factor that the Bureau of Economic Analysis of the Department of Commerce determines shall supersede such index.

“(4) SCHOOLS, LIBRARIES, RURAL HEALTH CARE, LIFE-LINE, AND LINK-UP HOLD HARMLESS.—Except as provided subsections (h)(1)(A), (h)(7)(B), and (h)(7)(J) as amended by section 4(b) of the Universal Service Reform Act of 2005, nothing in the Universal Service Reform Act of 2005 shall be construed as limiting, changing, modifying, or alter-



1 ing the amount of support or means of distribution  
2 for the schools, libraries, rural health care, life-line,  
3 and link-up programs. The Commission shall ensure  
4 that the amount of support such programs receive  
5 shall not fall below the level of support received in  
6 the last fiscal year prior to the date of enactment of  
7 the Universal Service Reform Act of 2005.

8 “(e) DISTRIBUTION AND USE OF UNIVERSAL SERV-  
9 ICE SUPPORT.—

10 “(1) IN GENERAL.—Only an eligible tele-  
11 communications carrier designated under section  
12 214(e) shall be eligible to receive specific Federal  
13 universal service support. A carrier that receives  
14 such support shall use that support only for the pro-  
15 vision, maintenance, and upgrading of facilities and  
16 services for which the support is intended. Any such  
17 support should be explicit and sufficient to achieve  
18 the purposes of this section.

19 “(2) USES OF UNIVERSAL SERVICE SUPPORT.—  
20 The use of universal service support for all rural, in-  
21 sular, and high cost areas—

22 “(A) should be expanded to include high  
23 speed broadband services;

24 “(B) should be based on actual costs of  
25 such services; and



1           “(C) should be available to communica-  
2           tions service providers that are determined to  
3           be eligible telecommunications carriers under  
4           section 214(e).

5           “(3) SUPPORT FOR NON RURAL CARRIERS PRO-  
6           VIDING SERVICE IN RURAL, INSULAR, AND HIGH  
7           COST AREAS.—

8           “(A) CALCULATING SUPPORT.—Except  
9           with respect to non-rural carriers serving insu-  
10          lar areas, in calculating Federal universal serv-  
11          ice support for eligible telecommunications car-  
12          riers that serve rural, insular, and high cost  
13          areas and that are not rural telephone compa-  
14          nies, the Commission shall, subject to the provi-  
15          sions of subparagraph (B), revise the Commis-  
16          sion’s support mechanism for rural, insular,  
17          and high cost areas to provide support to each  
18          wire center in which the incumbent local ex-  
19          change carrier’s average cost per line for such  
20          wire center exceeds 3.75 times the national av-  
21          erage cost per line.

22          “(B) HOLD HARMLESS.—In implementing  
23          this paragraph, the Commission shall ensure  
24          that no non-rural carrier receives less Federal  
25          support calculated under paragraph (1) than





1 the non-rural carrier would have received under  
2 the Commission's support mechanism for rural,  
3 insular, and high cost areas as in effect on the  
4 date of the enactment of the Universal Service  
5 Reform Act of 2005.

6 “(4) ADMINISTRATION: ACCOUNTABILITY  
7 STANDARDS.—

8 “(A) NETWORK TRAFFIC IDENTIFICATION  
9 ACCOUNTABILITY STANDARDS.—

10 “(i) NETWORK TRAFFIC IDENTIFICA-  
11 TION STANDARDS.—Communications serv-  
12 ice providers shall ensure that all traffic  
13 that originates on their networks contains  
14 sufficient information to allow for traffic  
15 identification by other communications  
16 service providers that transport, transit, or  
17 terminate such traffic, including informa-  
18 tion on the identity of the originating pro-  
19 vider, the calling and called parties, and  
20 the jurisdiction in which the traffic origi-  
21 nates.

22 “(ii) NETWORK TRAFFIC IDENTIFICA-  
23 TION RULEMAKING.—The Commission, in  
24 consultation with the States, shall initiate  
25 a single rulemaking no later than 180 days



1 after the date of enactment of the Uni-  
2 versal Service Reform Act of 2005 to es-  
3 tablish rules and enforcement provisions  
4 for traffic identification. Such rules shall  
5 include mandatory requirements for identi-  
6 fication of all traffic by the originating  
7 provider and shall require that such traffic  
8 identification information is transferred to  
9 transporting, transiting, and terminating  
10 providers unchanged and unaltered. The  
11 rules shall also establish procedures for  
12 carriers to contest insufficiently labeled  
13 traffic in a prompt manner and shall es-  
14 tablish appropriate enforcement and pen-  
15 alty provisions for carriers that insuffi-  
16 ciently label traffic. The processes to adju-  
17 dicate insufficiently labeled traffic shall re-  
18 quire the relevant providers to demonstrate  
19 their compliance with the Commission's  
20 traffic labeling standards.

21 “(iii) NETWORK TRAFFIC IDENTIFICA-  
22 TION ENFORCEMENT.—The Commission  
23 shall adopt clear penalties, fines, and sanc-  
24 tions for insufficiently labeled traffic. The



1 penalties, fines, and sanctions established  
2 by the Commission shall provide—

3 “(I) adequate retroactive mone-  
4 tary reimbursement to the defrauded  
5 provider or providers equal to the rate  
6 differential between accurately and in-  
7 accurately labeled traffic;

8 “(II) monetary fines determined  
9 by the Commission;

10 “(III) a deterrence penalty for  
11 those offenders who do not resolve  
12 their violations or remit the required  
13 reimbursements to defrauded provider  
14 or providers;

15 “(IV) an adequate deterrence  
16 penalty against frivolous accusations;

17 “(V) the ability of network traffic  
18 operators to block inaccurately labeled  
19 traffic;

20 “(VI) the decertification of re-  
21 peat offenders or those providers un-  
22 willing to comply with the established  
23 rules and penalties; and

24 “(VII) specific and clear time  
25 frames for the investigation and sub-

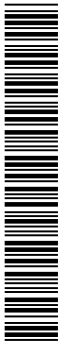


1           sequent penalty, fines, and sanctions  
2           of offending providers, to ensure prop-  
3           er accountability.

4           “(iv) ACCOUNTABILITY FOR NETWORK  
5           TRAFFIC EXCHANGE.—To ensure that all  
6           communications service providers are ac-  
7           countable for the volume of traffic the pro-  
8           viders terminate on other carriers’ net-  
9           works, the Commission shall ensure that  
10          all providers are compensated for the use  
11          of their networks by other providers.

12          “(B) UNIVERSAL SERVICE DISTRIBUTION  
13          ACCOUNTABILITY STANDARDS.—To ensure fair-  
14          ness and accountability in the distribution of  
15          universal service funding support, the Commis-  
16          sion shall promulgate rules to calculate the level  
17          of universal service support to be distributed to  
18          all eligible recipients.

19          “(C) ELIGIBLE TELECOMMUNICATIONS  
20          CARRIERS ACCOUNTABILITY.—The Commission  
21          shall establish reporting requirements for all  
22          communications service providers receiving uni-  
23          versal service support. The reporting require-  
24          ments shall not impose unnecessary burdens,  
25          and shall be technology and provider neutral.

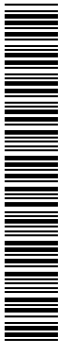


1           The Commission shall periodically review the  
2           reporting requirements to ensure that universal  
3           service support is used for the provision, main-  
4           tenance and upgrading of the facilities for  
5           which support is intended.”.

6           (b) RURAL HEALTH CARE SUPPORT MECHANISMS.—

7           (1) AMENDMENT.—Subparagraph (A) of sec-  
8           tion 254(h)(1) of the Communications Act of 1934  
9           (47 U.S.C. 254(h)(1)) is amended to read as follows:

10           “(A) HEALTH CARE SERVICES FOR RURAL  
11           AREAS.—Within 180 days after the date of en-  
12           actment of the Universal Service Support Act of  
13           2005, the Commission shall prescribe regula-  
14           tions that provide that a communications serv-  
15           ice provider shall, upon, receiving a bona fide  
16           request, provide covered services which are nec-  
17           essary for the provision of health care services  
18           in a State, including instruction relating to  
19           such services, to any public or nonprofit health  
20           care provider that serves persons who reside in  
21           rural areas in that State at rates that are rea-  
22           sonably comparable to rates charged for similar  
23           services in urban areas in that State. A commu-  
24           nications service provider providing service  
25           under this subparagraph shall be entitled to



1 have an amount equal to the difference, if any,  
2 between the rates for services provided to health  
3 care providers for rural areas in a State and  
4 the rates for similar services in urban areas in  
5 that State treated as a service obligation as a  
6 part of its obligation to participate in the mech-  
7 anisms to preserve and advance universal serv-  
8 ice.”.

9 (2) DEFINITION OF HEALTH CARE PRO-  
10 VIDER.—Subparagraph (B) of section 254(h)(7) of  
11 such Act (47 U.S.C. 254(h)(7)(B)) is amended to  
12 read as follows:

13 “(B) HEALTH CARE PROVIDER.—The term  
14 ‘health care provider’ means—

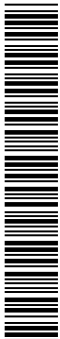
15 “(i) post-secondary educational insti-  
16 tutions offering health care instruction,  
17 teaching hospitals, and medical schools;

18 “(ii) community health centers or  
19 health centers providing health care to mi-  
20 grants;

21 “(iii) local health departments or  
22 agencies;

23 “(iv) community mental health cen-  
24 ters;

25 “(v) not-for-profit hospitals;



1 “(vi) critical access hospitals;  
2 “(vii) rural hospitals with emergency  
3 rooms;  
4 “(viii) rural health clinics;  
5 “(ix) not-for-profit nursing homes or  
6 skilled nursing homes;  
7 “(x) hospice providers;  
8 “(xi) emergency medical services fa-  
9 cilities;  
10 “(xii) rural dialysis facilities;  
11 “(xiii) elementary, secondary, and  
12 post-secondary school health clinics; and  
13 “(xiv) consortia of health care pro-  
14 viders consisting of one or more entities  
15 described in clauses (i) through (xiii).”.

16 (3) DEFINITION OF RURAL FOR HEALTH CARE  
17 SUPPORT.—Section 254(h)(7) of such Act is further  
18 amended by adding at the end the following new  
19 subparagraph:

20 “(J) RURAL.—Within 90 days after the  
21 date of enactment of the Universal Service Re-  
22 form Act of 2005, the Commission shall pre-  
23 scribe regulations that provide that, for pur-  
24 poses of the rural health care universal service



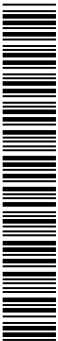
1 support mechanisms established pursuant to  
2 this subsection, a ‘rural area’ is—

3 “(i) any incorporated or unincor-  
4 porated place in the United States, its ter-  
5 ritories and insular possessions (including  
6 any area within the Federated States of  
7 Micronesia, the Republic of the Marshall  
8 Islands and the Republic of Palau) that  
9 has no more than 20,000 inhabitants  
10 based on the most recent available popu-  
11 lation statistics from the Census Bureau;

12 “(ii) any area located outside of the  
13 boundaries of any incorporated or unincor-  
14 porated city, village, or borough having a  
15 population exceeding 20,000;

16 “(iii) any area with a population den-  
17 sity of fewer than one thousand persons  
18 per square mile; or

19 “(iv) any place that qualified as a  
20 ‘rural area’ and received support from the  
21 rural health care support mechanism pur-  
22 suant to the Commission’s rules in effect  
23 on December 1, 2004.”.





1 **SEC. 5. ELIGIBLE RECIPIENTS OF UNIVERSAL SERVICE**  
2 **SUPPORT.**

3 (a) AMENDMENT.—Section 214(e) of the Commu-  
4 nications Act of 1934 (47 U.S.C. 214(e)) is amended—

5 (1) by redesignating paragraphs (3) and (4) as  
6 paragraphs (6) and (7), respectively;

7 (2) by redesignating (5) and (6) as paragraphs  
8 (9) and (8), respectively, and reordering such para-  
9 graphs in numerical order; and

10 (3) by striking paragraphs (1) and (2) and in-  
11 serting the following:

12 “(1) **ELIGIBILITY TO RECEIVE UNIVERSAL**  
13 **SERVICE SUPPORT.**—A communications service pro-  
14 vider shall be eligible to receive universal service  
15 support in accordance with the requirements of this  
16 subsection only if such communications service  
17 provider—

18 “(A) uses its own facilities to make avail-  
19 able, throughout a service area, the services  
20 that have been determined by the Commission  
21 to be universal services pursuant to section  
22 254(c);

23 “(B) advertises the supported services and  
24 their associated charges throughout the service  
25 area using media of general distribution, and  
26 advertises the availability of life-line and link-up



1 services in a manner reasonably designed to  
2 reach those likely to qualify for those services;

3 “(C) meets the basic requirements for the  
4 deployment of high speed broadband service,  
5 and provides high speed broadband service, ex-  
6 cept that the Commission shall establish a  
7 process—

8 “(i) whereby a determination can be  
9 made to waive the requirements of this  
10 subparagraph for 3 years upon application  
11 of a communications service provider dem-  
12 onstrating that the deployment and provi-  
13 sion of high speed broadband service is not  
14 technically feasible or would materially im-  
15 pair the communications service provider’s  
16 ability to continue to provide local ex-  
17 change service throughout its service area;  
18 and

19 “(ii) whereby the communications  
20 service provider may seek renewal of such  
21 waiver every 3 years for as long as the de-  
22 ployment and provision of high speed  
23 broadband service is not technically fea-  
24 sible or would materially impair the com-  
25 munications service provider’s ability to



1 continue to provide local exchange service  
2 throughout its service area;

3 “(D) demonstrates the ability to remain  
4 functional in emergency situations;

5 “(E) satisfies consumer protection and  
6 service quality standards; and

7 “(F) offers local usage comparable to other  
8 communications service providers within that  
9 service area and the immediate surrounding  
10 service areas.

11 “(2) ELIGIBILITY CRITERIA.—In addition to the  
12 criteria specified in paragraph (1), the Commission  
13 shall establish such additional eligibility criteria for  
14 the receipt of universal service support by commu-  
15 nications service providers as it deems necessary and  
16 in the public interest. The criteria established in  
17 paragraph (1) and the criteria established by the  
18 Commission pursuant to this paragraph shall be  
19 used by State commissions in determining which  
20 providers shall be designated as eligible recipients of  
21 universal service support for the purpose of para-  
22 graph (3).

23 “(3) DESIGNATION OF ELIGIBLE RECIPIENTS.—  
24 A State commission shall, upon its own motion or  
25 upon request, designate as an eligible recipient of



1 universal service support only those providers meet-  
2 ing the requirements of paragraphs (1) and (2).

3 “(4) GRANDFATHER PROVISION.—Recipients of  
4 universal service support in any service area prior to  
5 the date of enactment of the Universal Service Re-  
6 form Act of 2005 shall meet the eligibility require-  
7 ments for eligible recipients of universal service sup-  
8 port as described in paragraphs (1) and (2) within  
9 5 years after the date of enactment of the Universal  
10 Service Reform Act of 2005. Failure of such an eli-  
11 gible recipient of universal service support to main-  
12 tain and meet the eligibility requirements within 5  
13 years after the date of enactment of the Universal  
14 Service Reform Act of 2005 shall require the auto-  
15 matic termination of Federal universal service sup-  
16 port to that recipient. This paragraph shall not be  
17 construed to prohibit such a recipient from obtaining  
18 a waiver under paragraph (1)(C).

19 “(5) STATE AUTHORITY.—Nothing in this Act  
20 shall preclude any State from using general tax reve-  
21 nues to provide additional universal service sup-  
22 port.”.

23 (b) DEFINITIONS.—Paragraph (9) of section 214(e)  
24 (as redesignated by subsection (a)) is amended to read as  
25 follows:



1 “(9) DEFINITIONS.—As used in this subsection:

2 “(A) SERVICE AREA.—The term ‘service  
3 area’ means a geographic area that aligns with  
4 the area in which a communications service pro-  
5 vider is licensed or authorized to provide service  
6 for the purpose of determining universal service  
7 obligations and support mechanisms. In the  
8 case of an area served by a rural telephone  
9 company, ‘service area’ means such company’s  
10 ‘study area’.

11 “(B) LOCAL USAGE.—The term ‘local  
12 usage’ means an amount of minutes of use of  
13 exchange service, prescribed by the Commission,  
14 provided free of charge to end users.”.

15 **SEC. 6. REMOVAL OF IMPEDIMENTS TO SUFFICIENT SUP-**  
16 **PORT MECHANISMS.**

17 Section 254 of the Communications Act of 1934 is  
18 amended by adding at the end the following new sub-  
19 section:

20 “(m) REMOVAL OF LIMITATIONS ON HIGH COST  
21 SUPPORT MECHANISMS.—The limitations on universal  
22 service support contained in section 54.305 of the Com-  
23 mission’s regulations (47 CFR 54.305), and the individual  
24 caps imposed upon carriers contained in section 47.631  
25 of the Commission’s regulations (47 CFR 36.631), shall



1 cease to be effective on the date of enactment of the Uni-  
2 versal Service Reform Act of 2005. The Commission shall  
3 not, on or after such date of enactment, enforce or reim-  
4 pose limitations on support mechanisms for rural tele-  
5 phone companies or exchanges they acquire based on fund  
6 size or other considerations unrelated to the sufficiency  
7 of support to achieve the purposes of this section.”.

8 **SEC. 7. APPLICATION OF ANTIDEFICIENCY ACT.**

9 Section 254 of the Communications Act of 1934 (47  
10 U.S.C. 254) is amended by adding the following sub-  
11 section (n):

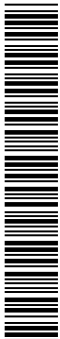
12 “(n) APPLICATION OF ANTIDEFICIENCY ACT.—Sec-  
13 tion 1341 and subchapter II of chapter 15 of title 31,  
14 United States Code, do not apply—

15 “(1) to any amount collected or received as  
16 Federal universal service contributions required by  
17 this section, including any interest earned on such  
18 contributions; nor

19 “(2) to the expenditure or obligation of  
20 amounts attributable to such contributions for uni-  
21 versal service support programs established pursuant  
22 to this section.”.

23 **SEC. 8. REPORT TO CONGRESS.**

24 The Federal Communications Commission shall, not  
25 later than 3 years after the date of enactment of this Act



1 and triennially thereafter, report to Congress regarding  
2 the availability of the services designated by the Commis-  
3 sion as universal services to all Americans, including  
4 schools, libraries, rural health care providers, and low in-  
5 come consumers.

